

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PATTI DONLON, ET AL.,

No. C11-03376 CRB

Plaintiffs,

**ORDER CLARIFYING ORDER OF
JULY 28, 2014**

v.

AC AND S, INC., ET AL.,

Defendants.

Defendants have filed a joint request for clarification of the Court's July 28, 2014 Order, see Order (dkt. 92), which granted reconsideration of Judge Robreno's March 26, 2013 Order and denied Defendants' motions for summary judgment, see Br. (dkt. 107). Plaintiff has filed a response. See Response (dkt. 108). Defendants essentially ask whether the Court's Order only denied summary judgment based on the sophisticated user defense, or whether the denial also concerned "the additional grounds which were believed to be deferred until after the parties meet with Magistrate Corley." Br. at 2.

The denial was to all bases for summary judgment. As the Court found at the motion hearing, Defendants' defenses depend upon a weighing of the evidence that is inappropriate at summary judgment. See Tr. of July 25, 2014 at 10:14-25; 11:6-8; 12:21-23.

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Defendants are free to raise these same defenses at trial if they wish to do so.

IT IS SO ORDERED.

Dated: October 17, 2014



CHARLES R. BREYER
UNITED STATES DISTRICT
JUDGE